



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
MOBILE DISTRICT, CORPS OF ENGINEERS  
P.O. BOX 2288  
MOBILE, AL 36628-0001

September 17, 2013

South Alabama Branch  
Regulatory Division

SUBJECT: Department of the Army Nationwide Permit Number SAM-2013-00835-GAC,  
Alabama Department of Conservation and Natural Resources (ADCNR), Gulf of Mexico

ADCNR  
Attention: Gunter Guy, Jr., Commissioner  
64 North Union Street  
Montgomery, Alabama 36130

Dear Mr. Guy:

This letter is in response to your July 17, 2013 request to fill 0.076 acre of low-quality emergent wetland area in conjunction with the development and construction of a public facility at Gulf State Park, Gulf Shores, Baldwin County, Alabama.

The wetland impact will be mitigated through the creation of 0.228 acre of emergent wetland habitat on the project site.

Based upon the information and plans you provided, we hereby verify the work described above, which would be performed in accordance with the enclosed drawings, is authorized by **Nationwide Permit (NWP) 18, Minor Discharges**, in accordance with 33 CFR Part 330 of our regulations. This NWP and its associated Regional and General Conditions can be viewed at our website at: [www.sam.usace.army.mil/missions/regulatory](http://www.sam.usace.army.mil/missions/regulatory). You must comply with all of the special and general conditions and any project specific conditions of this authorization or you may be subject to enforcement action. In the event you have not completed construction of your project within the specified time limit, a separate application or re-verification may be required. **This verification expires on March 18, 2017.**

You must comply with all terms and conditions associated with NWP No. 12, as well as with the following special conditions:

**a. All work authorized by this Department of the Army permit shall be conducted in accordance with the Best Management Practices of the Alabama Department of Environmental Management.**

**b. By letter dated March 12, 2012 the ADEM, has certified that work authorized by this Nationwide Permit will be in compliance with the applicable water quality standards established under Section 303 of the Clean Water Act and Title 22, Section 22-22-9(g), Code of Alabama 1975, provided the applicant acts in accordance with the**

conditions as specified. You shall comply with all the terms and conditions of the Alabama Department of Environmental Management (ADEM) Section 401 Water Quality Certification for the Nationwide Permits which can be found our website, [www.sam.usace.army.mil/missions/regulatory](http://www.sam.usace.army.mil/missions/regulatory) or, at your request, a paper copy will be provided to you.

c. If the approved permit drawings conflict with the specific conditions of this NWP verification, then the specific conditions shall prevail.

d. Should artifacts or archaeological features be encountered during project activities, work shall cease and the Alabama Historical Commission and the Mobile District shall be consulted immediately.

U.S. Army Corps of Engineers . . . . . Telephone: (251) 690-2658  
Alabama Historical Commission . . . . Telephone: (334) 242-3184

e. Should threatened or endangered species, or their critical habitat, be encountered during project activities, work shall cease and the U.S. Fish and Wildlife Service shall be consulted immediately.

U.S. Fish and Wildlife Service.....Telephone (251) 441-5181

f. The permittee will contact the community's designated responsible officials to obtain necessary permits and to ensure all floodplain ordinances and safety precautions in effect for this area are met.

g. Mitigation for impacts to 0.076 acre of emergent wetland area shall be accomplished through creation of 0.228 acre of emergent wetland habitat on the project site, in accordance with the published document, *Wetland Mitigation Plan, Gulf State Park Lodge, Gulf Shores, Alabama, USACE Permit Number SAM-2013-00835-GAC, Volkert Job Number 334001.12*. This plan was prepared for the Alabama Department of Conservation and Natural Resources and dated 17 September 2013, copy enclosed.

The permittee shall submit monitoring reports in accordance with paragraph 9.2.5 of the above- referenced mitigation plan.

Nothing in this letter shall be construed as excusing you from compliance with other Federal, State, or local statutes, ordinances, or regulations which may affect this work.

You should study and carefully adhere to all the terms and conditions of the permit. NWP General Condition 30 (*Compliance Certification*) requires that every permittee who has received NWP verification must submit a signed certification regarding the completed work and any required mitigation. Enclosure 1, attached, is the form you must complete and return to us to satisfy this requirement. Also enclosed is a "NOTICE OF

AUTHORIZATION" which must be conspicuously displayed at the site during construction of the permitted work.

Attached to this verification that your project is authorized under a NWP is an approved jurisdictional determination (JD). If you are not in agreement with that approved JD, you can make an administrative appeal under 33 CFR Part 331. Enclosed you will find a Notification of Administrative Appeal Options and Process fact sheet and Request for Appeal (RFA) form. If you choose to object to certain terms and conditions of the permit, you must follow the directions provided in Section 1, Part D and submit the completed RFA form to the letterhead address.

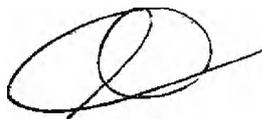
In order for an RFA to be accepted by the U. S. Army Corps of Engineers (Corps), the Corps must determine that it is complete, that it meets the criteria under 33 CFR Part 331.5, and that it has been received by the District office within 60 days of the date of the RFA. Should you decide to submit an RFA form, it must be received at the letterhead address by within 60 days of the date of this letter. It is not necessary to submit an RFA form to the District office, if you do not object to the determination attached to this letter.

This letter of authorization does not obviate the necessity to obtain any other Federal, State or local permits, which may be required. Please note you are also required to submit a signed certification regarding the completed work and any required mitigation. The enclosed Compliance Certification form must be completed and returned to the letterhead address within 60 days of completion of the work authorized.

A copy of this correspondence is furnished to the following: ADEM, Mobile Branch, Coastal Section, Attention: Mr. Scott Brown, 3664 Dauphin Street, Suite B, Mobile, Alabama 36608; Volkert, Incorporated, Attention: Mr. Brett Gaar, 316 McKenzie Street, Foley, Alabama 36535.

Please contact me at (251) 694-4077 if you have any questions. For additional information about our Regulatory Program, visit our web site at: <http://www.sam.usace.army.mil/missions/regulatory> and please take a moment to complete our customer satisfaction survey while you're there or complete and return the enclosed self addressed survey form. Your responses are appreciated and will allow us to improve our services.

Sincerely,



Glen A. Cunningham  
Project Manager, South Alabama Branch  
Regulatory Division

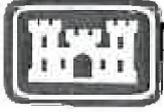
Enclosures

When the structures or work authorized by this NWP (SAM-2013-00835-GAC) are still in existence at the time the property is transferred, the terms and conditions of this NWP, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this NWP and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

\_\_\_\_\_  
(TRANSFEEEE)

\_\_\_\_\_  
(DATE)

**COMPLIANCE CERTIFICATION**



**US Army Corps of Engineers  
Mobile District**

Permit Number: SAM-2013-00835-GAC

Name of Permittee: Alabama Department of Conservation and Natural Resources

Date of Issuance: September 09, 2013

Upon completion of the activity authorized by this permit and any mitigation required by the permit, please sign this certification and return it to the following address:

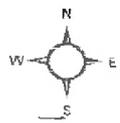
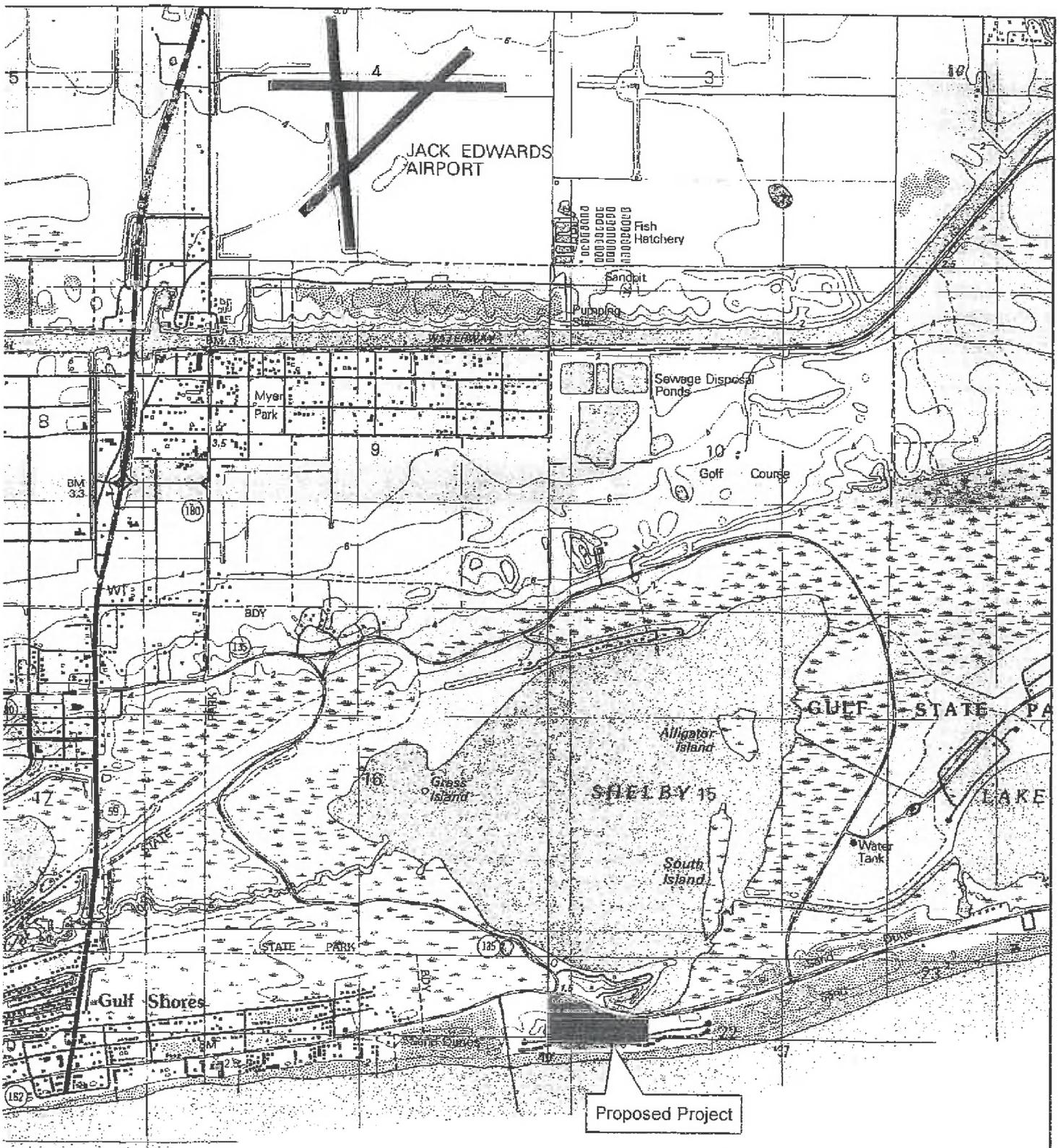
U.S. Army Corps of Engineers  
Mobile District  
Regulatory Division  
Coastal Branch  
Post Office Box 2288  
Mobile, Alabama 36628-0001

Please note that your permitted activity is subject to a compliance inspection by a U.S. Army Corps of Engineers representative. If you fail to comply with all terms and conditions of this permit the permit is subject to permit suspension, modification, or revocation and you are subject to an enforcement action by this office.

I hereby certify that the work authorized by the above-referenced permit has been completed in accordance with the terms and conditions of the said permit, and the required mitigation was completed in accordance with the permit conditions.

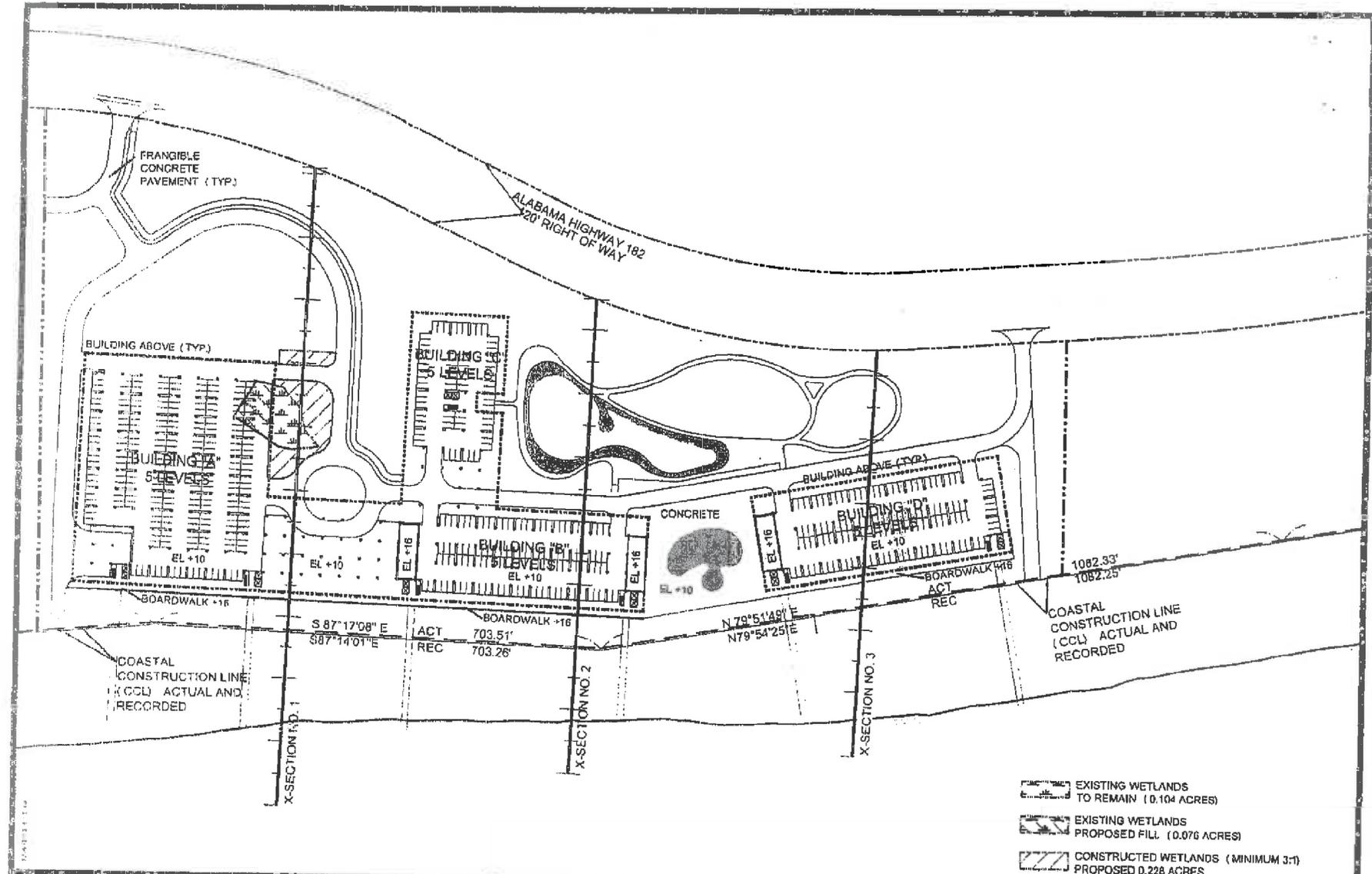
\_\_\_\_\_  
Signature of Permittee

\_\_\_\_\_  
Date



Vicinity Map

1 inch = 2,000 feet

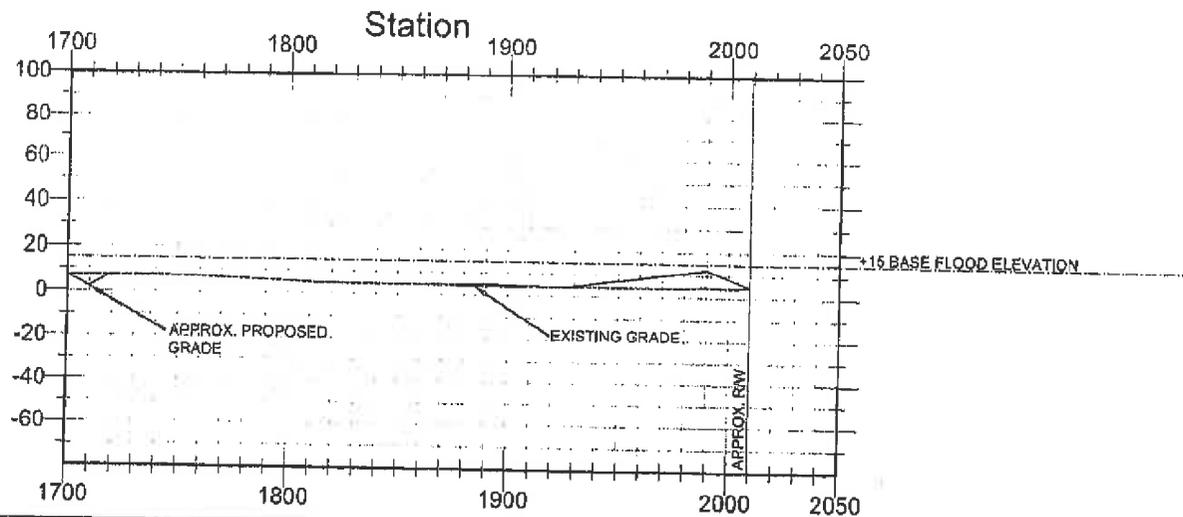
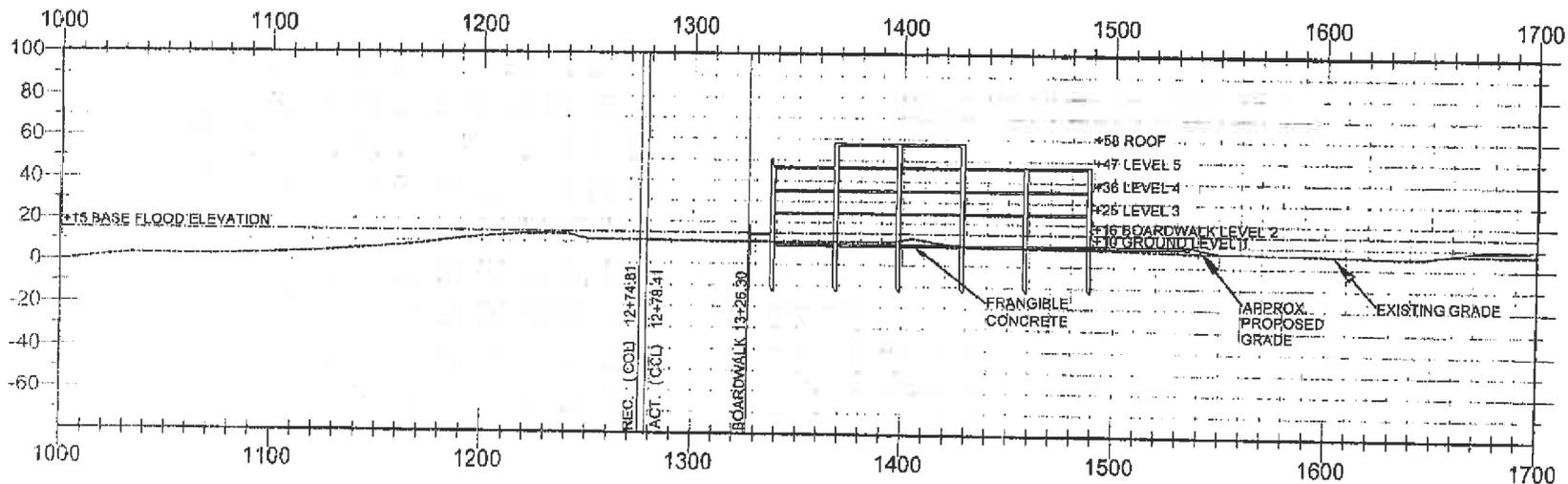


-  EXISTING WETLANDS TO REMAIN (0.104 ACRES)
-  EXISTING WETLANDS PROPOSED FILL (0.076 ACRES)
-  CONSTRUCTED WETLANDS (MINIMUM 3:1) PROPOSED 0.228 ACRES

# GULF STATE LODGE



Gulf State Park Enhancement Project

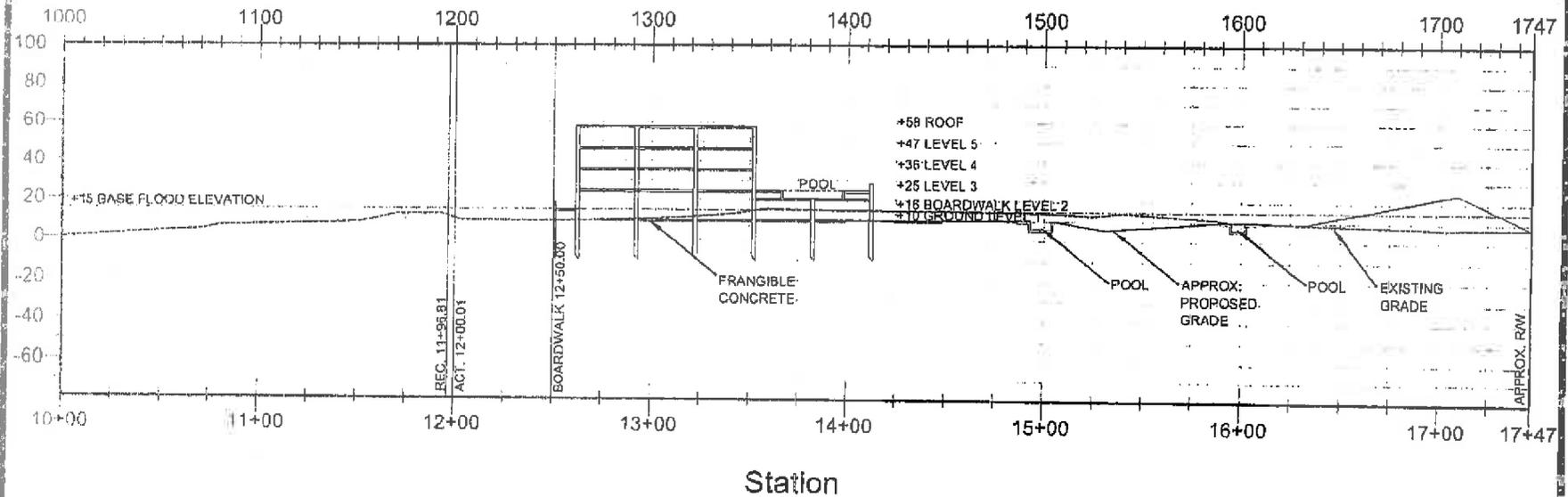


# GULF STATE LODGE X-SECTION NO. 1



H/V Scale: 1" = 75'

# Gulf State Park Enhancement Project

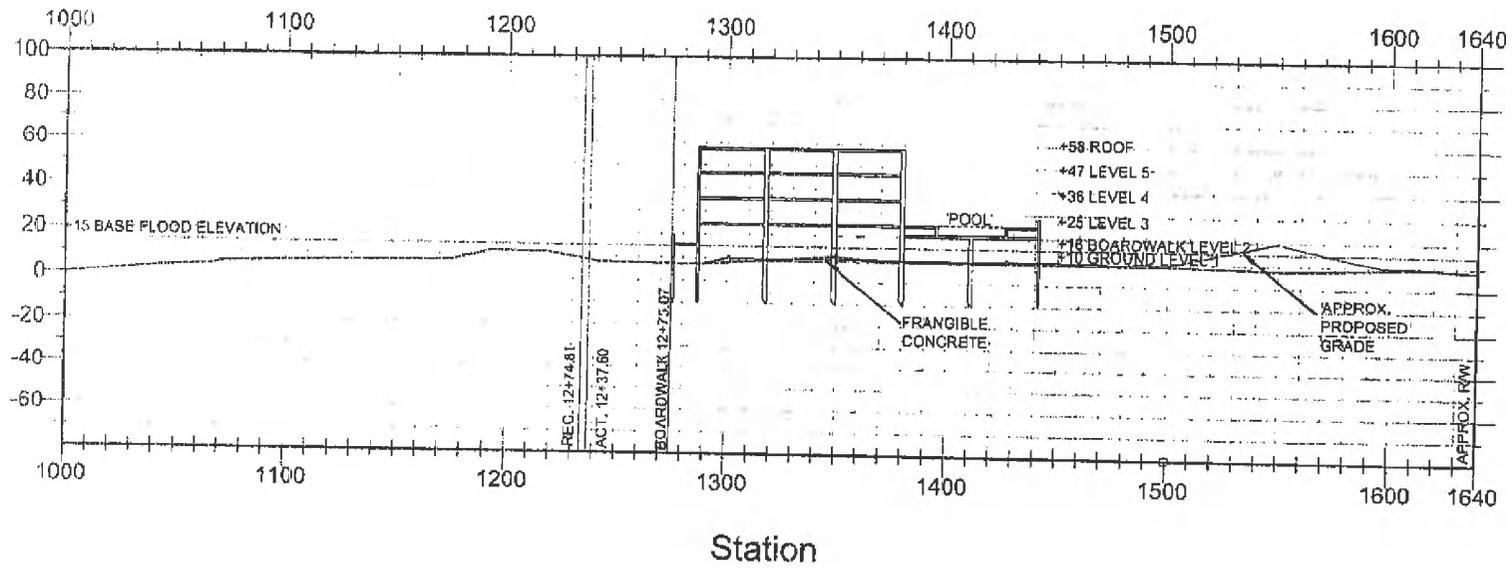


GULF STATE LODGE X-SECTION NO. 2



H/V Scale: 1" = 75'

Gulf State Park Enhancement Project



GULF STATE LODGE X-SECTION NO. 3



H/V Scale: 1" = 75'

Gulf State Park Enhancement Project

APPROVED JURISDICTIONAL DETERMINATION FORM  
U.S. Army Corps of Engineers

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

**SECTION I: BACKGROUND INFORMATION**

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD):

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: June 20, 2013

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Mobile, ADCNR, SAM-2013-00673-JEB

State: Alabama County/parish/borough: Baldwin City: Gulf Shores  
Center coordinates of site (lat/long in degree decimal format): Lat. 30.251848° N, Long. 87.654044° W  
Universal Transverse Mercator:

Name of nearest waterbody: Gulf of Mexico

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Gulf of Mexico

Name of watershed or Hydrologic Unit Code (HUC): 03140107

Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.

Check if other sites (e.g., offsite mitigation sites, disposal sites, etc...) are associated with this action and are recorded on a different JD form.

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

Office (Desk) Determination. Date: March 2013

Field Determination. Date(s): March 2013

**SECTION II: SUMMARY OF FINDINGS**

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There ~~are~~ **are** "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [Required]

Waters subject to the ebb and flow of the tide.

Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

Explain:

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There ~~are~~ **are** "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [Required]

1. Waters of the U.S.

a. Indicate presence of waters of U.S. in review area (check all that apply):<sup>1</sup>

TNWs, including territorial seas

Wetlands adjacent to TNWs

Relatively permanent waters<sup>2</sup> (RPWs) that flow directly or indirectly into TNWs

Non-RPWs that flow directly or indirectly into TNWs

Wetlands directly abutting RPWs that flow directly or indirectly into TNWs

Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs

Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs

Impoundments of jurisdictional waters

Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area:

Non-wetland waters: Gulf Of Mexico linear feet: Approximately width (ft) and/or acres.

Wetlands: .81 acres.

c. Limits (boundaries) of jurisdiction based on: 1987 Delineation Manual

Elevation of established OHWM (if known):

2. Non-regulated waters/wetlands (check if applicable):<sup>3</sup>

Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be non-jurisdictional.  
Explain:

<sup>1</sup> Boxes checked below must be supported by coordinating the appropriate sections in Section III below.

<sup>2</sup> For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow (at least seasonally) e.g., typically 3 months).

<sup>3</sup> Non-regulated waters/wetlands are defined in Section III below.

Tributary stream order, if known:

(b) General Tributary Characteristics (check all that apply):

Tributary is:  Natural  
 Artificial (man-made). Explain:  
 Manipulated (man-altered). Explain:

Tributary properties with respect to top of bank (estimate):

Average width: feet  
Average depth: feet  
Average side slopes: Pick List

Primary tributary substrate composition (check all that apply):

Silts  Sands  Concrete  
 Cobbles  Gravel  Muck  
 Bedrock  Vegetation. Type/% cover:  
 Other. Explain:

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain:

Presence of run/riffle/pool complexes. Explain:

Tributary geometry: Pick List

Tributary gradient (approximate average slope): %

(c) Flow:

Tributary provides for: Pick List

Estimate average number of flow events in review area/year: Pick List

Describe flow regime:

Other information on duration and volume:

Surface flow is: Pick List. Characteristics:

Subsurface flow: Pick List. Explain findings:

Dye (or other) test performed:

Tributary has (check all that apply):

Bed and banks  
 OHWM<sup>6</sup> (check all indicators that apply):  
 clear, natural line impressed on the bank  the presence of litter and debris  
 changes in the character of soil  destruction of terrestrial vegetation  
 shelving  the presence of wrack line  
 vegetation matted down, bent, or absent  sediment sorting  
 leaf litter disturbed or washed away  scour  
 sediment deposition  multiple observed or predicted flow events  
 water staining  abrupt change in plant community  
 other (list):

Discontinuous OHWM.<sup>7</sup> Explain:

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):

High Tide Line indicated by:  Mean High Water Mark indicated by:  
 oil or scum line along shore objects  survey to available datum;  
 fine shell or debris deposits (foreshore)  physical markings;  
 physical markings/characteristics  vegetation lines/changes in vegetation types.  
 tidal gauges  
 other (list):

(iii) Chemical Characteristics:

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).

Explain: Water clear at time of field review, slight to moderate odor of sewage, substantial input from ROW drainage from Schillenger Road.

Identify specific pollutants, if known: Reported sewage spills in the past.

<sup>6</sup> A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., when the stream temporarily flows underground, or when the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody, a flow regime (e.g., flow over a rock outcrop or through a culvert) that agency uses as an indicator of flow, away and across the break.

For each wetland, specify the following:

<u>Directly abuts? (Y/N)</u>	<u>Size (in acres)</u>	<u>Directly abuts? (Y/N)</u>	<u>Size (in acres)</u>
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Summarize overall biological, chemical and physical functions being performed:

### C. SIGNIFICANT NEXUS DETERMINATION

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Draw connections between the features documented and the effects on the TNW, as identified in the *Rapanos* Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

Note: the above list of considerations is not inclusive and other functions observed or known to occur should be documented below:

1. Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D:
2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:
3. Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

### D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):

1. **TNWs and Adjacent Wetlands.** Check all that apply and provide size estimates in review area:
  - TNWs: Gulf of Mexico linear feet width (ft), Or, acres.
  - Wetlands adjacent to TNWs: .81 acres.
2. **RPWs that flow directly or indirectly into TNWs.**
  - Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial:
  - Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g. typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.E. Provide rationale indicating that tributary flows seasonally:

Provide estimates for jurisdictional waters in the review area (check all that apply):

- Tributary waters: linear feet width (ft).
- Other non-wetland waters: acres.
- Identify type(s) of waters:
- Wetlands: acres.

**F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):**

- If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
- Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
  - Prior to the Jan 2001 Supreme Court decision in "SWANCC," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR).
- Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain:
- Other: (explain, if not covered above):

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):

- Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
- Lakes/ponds: acres.
- Other non-wetland waters: acres. List type of aquatic resource:
- Wetlands: acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (check all that apply):

- Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
- Lakes/ponds: acres.
- Other non-wetland waters: acres. List type of aquatic resource:
- Wetlands: acres.

**SECTION IV: DATA SOURCES**

**A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):**

- Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant:
- Data sheets prepared/submitted by or on behalf of the applicant/consultant:
  - Office concurs with data sheets/delineation report.
  - Office does not concur with data sheets/delineation report.
- Data sheets prepared by the Corps:
- Corps navigable waters' study.
- U.S. Geological Survey Hydrologic Atlas:
  - USGS NHD data.
  - USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: Gulf Shores, Baldwin County, Alabama.
- USDA Natural Resources Conservation Service Soil Survey. Citation:
- National wetlands inventory map(s). Cite name:
- State/Local wetland inventory map(s):
- FEMA/FIRM maps:
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- Photographs:  Aerial (Name & Date): Bing Aerial, Circa 2012.  
or  Other (Name & Date):
- Previous determination(s). File no. and date of response letter:
- Applicable/supporting case law:
- Applicable/supporting scientific literature:
- Other information (please specify):

**B. ADDITIONAL COMMENTS TO SUPPORT JD:**

**NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND  
REQUEST FOR APPEAL**

**Applicant :** Alabama Department of Conservation & Natural Resources      **File No.:** SAM-2013-00835-GAC      **Date:** 09 Sep 2013

<b>Attached is:</b>		See Section below
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
	PERMIT DENIAL	C
<b>XX</b>	APPROVED JURISDICTIONAL DETERMINATION	D
	PRELIMINARY JURISDICTIONAL DETERMINATION	E

**SECTION I -** The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at [http://www.usace.army.mil/CECW/Pages/reg\\_materials.aspx](http://www.usace.army.mil/CECW/Pages/reg_materials.aspx) or Corps regulations at 33 CFR Part 331.

**A: INITIAL PROFFERED PERMIT:** You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

**B: PROFFERED PERMIT:** You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**C: PERMIT DENIAL:** You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**D: APPROVED JURISDICTIONAL DETERMINATION:** You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**E: PRELIMINARY JURISDICTIONAL DETERMINATION:** You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

**SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT**

**REASONS FOR APPEAL OR OBJECTIONS:** (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

**ADDITIONAL INFORMATION:** The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

**POINT OF CONTACT FOR QUESTIONS OR INFORMATION:**

If you have questions regarding this decision and/or the appeal process you may contact:

GLEN A. CUNNINGHAM  
CESAM-RD-SA  
U.S ARMY CORPS OF ENGINEERS  
POST OFFICE BOX 2288  
MOBILE, ALABAMA 36628-0001  
(251)-690-2658

**RIGHT OF ENTRY:** Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.	Date:	Telephone number:
----------------------------------	-------	-------------------



This notice of authorization must be  
conspicuously displayed at the site of work.

United States Army Corps of Engineers

A permit to perform work authorized by statutes and regulations of the Department of the Army

at NEAR GULF OF MEXICO, GULF STATE PARK, GULF SHORES, BALDWIN COUNTY, ALABAMA

ADCNR

SEP 9, 2013

has been issued to \_\_\_\_\_ on \_\_\_\_\_

Address of Permittee ATTENTION; GUNTER GUY, JR. COMMISSIONER  
64 NORTH UNION ST., MONTGOMERY, ALABAMA 36130

Permit Number

**SAM-2013-00835-GAC**

For the

*District Commander*  
**GLEN A. CUNNINGHAM**  
REGULATORY DIVISION RD-A

ENG FORM 4336, Jul 81 (33 CFR 320-330) EDITION OF JUL 70 MAY BE USED

(Proponent: CECW-0)

NOTICE OF COMMENCEMENT OF WORK  
AUTHORIZED BY PERMITS

SAM-2013-00835-GAC \_\_\_\_\_ DATE \_\_\_\_\_

WORK AUTHORIZED UNDER DEPARTMENT OF THE ARMY PERMIT \_\_\_\_\_

DATED SEPTEMBER 9, 2013

NEAR GULF OF MEXICO, GULF STATE PARK  
TO PERFORM WORK IN GULF SHORES, BALDWIN COUNTY, ALABAMA

WAS COMMENCED ON \_\_\_\_\_

BY: \_\_\_\_\_

SIGNATURE

CESAM FORM 850  
JUNE 87



CESAM FORM 851  
JUN 87

BY: \_\_\_\_\_

BY: \_\_\_\_\_

WAS COMPLETED ON \_\_\_\_\_

NEAR GULF OF MEXICO, GULF STATE PARK,  
TO PERFORM WORK IN GULF SHORES, BALDWIN COUNTY, ALABAMA

DATED SEPTEMBER 9, 2013

WORK AUTHORIZED UNDER DEPARTMENT OF THE ARMY PERMIT \_\_\_\_\_

DATE \_\_\_\_\_

SAM-2013-00835-GAC

NOTICE OF COMPLETION OF WORK  
AUTHORIZED BY PERMITS

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**Wetland Mitigation Plan**

**Wetland Mitigation Plan  
Gulf State Park Lodge  
Gulf Shores, Alabama  
USACE Permit Number SAM-2013-00835-GAC  
Volkert Job Number 334001.12**

*Prepared for:*

**Alabama Department of Conservation and Natural Resources  
64 North Union Street  
Suite 479  
Montgomery, Alabama 36130**

**September 17, 2013**

*Prepared by:*

**VOLKERT, INC.  
316 South McKenzie Street  
Foley, AL 36535  
(251) 968-7551**

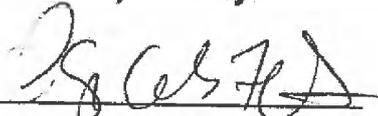
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**Wetland Mitigation Plan**

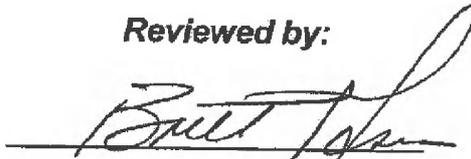
**Wetland Mitigation Plan  
Gulf State Park Lodge  
Gulf Shores, Alabama  
USACE Permit Number SAM-2013-00835-GAC  
Volkert Job Number 334001.12**

*Prepared by:*



**Paige Collins Felts  
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APPENDIX A      FIGURES

### APPENDICES

## **1.0 MITIGATION OBJECTIVE**

The objective of this mitigation project is to compensate for the unavoidable loss of 0.076 acres of emergent wetlands associated with the construction of the Gulf State Park Lodge. Approximately 0.228 acres of emergent wetlands will be created on-site and will provide flood storage capacity, groundwater recharge, water quality maintenance, and wildlife habitat.

## **2.0 SITE SELECTION**

The mitigation area locations were selected due to avoidance of Alabama Beach Mouse habitat and to aid in LEED certification of the proposed facility. Purchase of wetland credits from a commercial mitigation bank would not provide in-kind mitigation.

## **3.0 SITE PROTECTION INSTRUMENT**

The mitigation areas will be protected in perpetuity by a Declaration of Restrictive Covenants.

## **4.0 BASELINE INFORMATION**

### **4.1 Project Location**

#### **4.1.1 Coordinates and Project Location Description**

The Gulf State Park Lodge project is located at Latitude N 30.250382° and Longitude W 87.663899°. It is found in Section 22, Township 9 South, Range 4 East on the Gulf Shores, AL topographic quadrangle map.

#### **4.1.2 Maps**

Attached in **Appendix A, Figures 1, 2 and 3**, are maps showing the overall project location, the proposed project site plan showing the wetlands for the project that were verified by the U.S. Army Corps of Engineers (Corps) on June 24, 2013 and the proposed created wetlands, and a NRCS soils map for the project.

#### **4.1.3 Aerial/Satellite Photos**

Attached in **Appendix A, Figure 4**, is a 2012 aerial photograph of the project site.

#### **4.2 Impacted Wetland Classification and Characteristics**

Based on the Cowardin Classification, the impact area would be categorized as a palustrine, emergent, non-persistent wetland that is seasonally flooded and well drained. Native vegetation found in this wetland includes species such as *Spartina patens*, *Juncus effuses*, *Lachnanthes sp.*, and *Xyris sp.*, however, it is dominated by *Imperata cylindrical* (cogon grass) and *Sapium sebiferum* (Chinese tallow). The wetland is underlain by the Coastal beaches soil series. According to the *Baldwin County, Alabama Soil Survey*, Coastal beaches soil type consists of primarily white sand that contains fragments of seashells. The sand is nearly uniform in color and texture to a depth of several feet. Due to the prevalence of invasive species, the wetland is considered low quality.

#### **4.3 Historical and Current Land Use**

Historically the proposed project site where the wetland impacts are occurring was developed as a lodge and convention center until 2004 when it was destroyed by Hurricane Ivan. Since then, the site has been cleared of all remnant structures and is currently vacant.

#### **4.4 Current Owners**

The project site is owned by the State of Alabama.

#### **4.5 Watershed Context/Surrounding Land Use**

The area surrounding the project is contained within the state park boundary. The state fishing pier is directly adjacent to the project site to the west. The state park day use area and Highway 182 are directly adjacent to the north of the project area.

## **5.0 DETERMINATION OF CREDITS**

As previously stated, this wetland is considered low quality due to the prevalence of invasive species. The Corps, in consultation with Alabama Department of Environmental Management (ADEM), has determined that a 3:1 mitigation ratio is appropriate. Therefore, approximately 0.228 acres of emergent wetlands will be created on-site to offset the impacts.

## **6.0 MITIGATION WORK PLAN**

### **6.1 Mitigation Work Schedule**

Mitigation work, i.e. earthwork and planting of target species, will occur within 12 months of when the permitted wetland impacts occur.

### **6.2 Wetland Creation**

Approximately 0.228 acres of emergent wetlands will be created within the project area. Access for the creation and subsequent monitoring will be from Alabama Highway 182. See **Appendix A, Figure 2**, for location and size of mitigation areas.

Prior to any equipment being used on-site for wetland creation, equipment needs to be treated to reduce or eliminate the potential of invasive plants or their seeds from being artificially transplanted to the site.

In the creation area, existing vegetation; cogon grass, bluestem, torpedo grass, penny wort, and live oaks will be removed. Prior to excavation, existing stands of cogon grass will be heavily treated and the site confirmed to be free of invasives. A nearby, unimpacted wetland will be used as a reference to determine the elevation that will be established in the created wetlands. Spot elevations will be established prior to any land disturbance to ensure an appropriate depth is obtained. Once the desired elevation is obtained, organic material from the impacted wetlands will be

relocated to the mitigation site to provide native seedbed and rootstalk material which will create in-kind wetlands. The site will then be planted equally with *Spartina patens*, *Juncus effuses*, *Lachnanthes sp.*, and *Xyris sp.* obtained from nursery stock or available donor sites within the state park with spacing not to exceed 2 feet. If plant material is obtained from donor sites, the sprigs will not exceed 4 inches by 4 inches by 6 inches deep and no more than 1 sprig per square yard will be collected.

#### **7.0 MAINTENANCE PLAN**

General maintenance activities may be necessary to ensure successful ecological function is achieved. General maintenance activities may include but is not limited to removal of exotic and nuisance species. The created wetland will also be subjected to evaluations to ensure hydric soils, hydrophitic vegetation and hydrology are being achieved to meet the definition of a jurisdictional wetland in accordance with the 1987 wetland delineation manual and the 2010 regional supplement.

#### **8.0 PERFORMANCE STANDARDS**

Within 6 months of creation, the mitigation area will need to be delineated as a jurisdictional wetland. This means the site will be evaluated to determine that hydric soils, hydrology and hydrophitic vegetation are present and functioning as a jurisdictional wetland. The site will be considered successful when it achieves 100% vegetation cover of the vegetation species that will be planted which includes *Spartina patens*, *Juncus effuses*, *Lachnanthes sp.*, and *Xyris sp.*

#### **9.0 MONITORING PLAN**

A multi-year plan has been developed for the monitoring and documentation of the created wetlands. A wetland scientist will conduct the implementation and documentation of the monitoring.

## **9.1 Monitoring Periods**

Monitoring of the mitigation areas will be conducted semi semi-annually (spring and fall) for a period of five years.

## **9.2 Monitoring Field Procedures**

The monitoring plan field procedures have been developed to survey the mitigated wetlands. The survey will document the following parameters:

- Surface water depths
- Vegetation coverage
- Listing of invader species and removal efforts
- Wildlife observed in wetland
- Photographs of the site

### **9.2.1 Depth of Water Surface and Hydrology**

The water surface depth must be determined. In most cases the elevations will be consistent, however, a check is strongly recommended. These depths will be recorded on the field data sheets.

### **9.2.2 Vegetation Coverage and Composition**

During the monitoring periods, a percent cover for each planted species will be generated. In the event of poor coverage, the representative plant species will be obtained from nursery stock or donor stock and will be replanted. If exotic and/or invasive species are observed, it will be noted in the monitoring report and they will be promptly removed from the mitigation areas.

### **9.2.3 Wildlife Observed in Wetland**

Observations of macroinvertebrates, waterfowl, fish, and other associated wildlife are to be made during the survey. An informal listing and approximate numbers of the animals seen are to be included on the survey. Any evidence of the presence of animals

that was seen in the field, such as tracks, dens, scratchings, etc. will be noted. A survey of macroinvertebrates will not be performed during dry periods, when surface water is not present.

#### **9.2.4 Photographs of the Site**

As the monitoring is being conducted, photographs are to be taken of the wetlands to document the growth and development. These photographs are to be included with the survey. The location, time and date the picture was taken must be written on each photograph. These photos will be compiled and included with the reports.

#### **9.2.5 Reporting**

Reports will be submitted semi-annually for five years. All of the information, which was collected during surveys, must be included in the field data sheets for that monitoring period. Copies of the report will be provided to the ADEM, U.S. Fish & Wildlife Service and the Corps.

### **10.0 LONG-TERM MANAGEMENT PLAN**

The mitigation areas will be managed in perpetuity by the Alabama Department of Conservation and Natural Resources. Maintenance will include any and all activities necessary to improve and sustain the ecological function of the site. Such may include but are not limited to application of mechanical and chemical means to control and eliminate exotic and nuisance species.

### **11.0 ADAPTIVE MANAGEMENT PLAN**

In the event it is determined that the mitigation areas are not achieving success, then adaptive management strategies including but not limited to the evaluation of alternate sites, use of commercial banks, and other sources of mitigation credit will be evaluated.